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EFFECTIVE FUNCTIONING OF HUMAN RIGHTS MECHANISMS

Written statement submitted by the Association for World Education,
a non-governmental organization on the Roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[20 December 1999]

GE.00-10296 (E)

Enhancing the capacity of human rights bodies to deal with internal armed conflicts

1. Today all the United Nations bodies face a growing number of intra-State armed conflicts. As the Secretary-General wrote in his report to the Commission on Human Rights dealing with the fundamental standards of humanity (E/CN.4/1998/87):

> "At the present time, it is often situations of internal violence that pose the greatest threat to human dignity and freedom. The truth of this observation is borne out in many countries around the world. The reports prepared by or for United Nations human rights bodies repeatedly draw attention to the link between human rights abuses and ongoing violence and confrontation between armed groups and government forces, or simply between different armed groups" (para. 8). "These situations are characterized by the existence of an armed challenge to the Government, in the form of one or more armed groups taking up arms in pursuit of, broadly speaking, political objectives. These objectives might include demands for more autonomy or even secession for particular ethnic, religious or linguistic minorities within the State concerned, overthrowing the existing Government, rejection of the existing constitutional order, or challenges to the territorial integrity of the State. In other situations, where an existing Government collapses or is unable or unwilling to intervene, armed groups fight among themselves, for example, for the right to establish a new Government or to ensure the supremacy or continuation of their own particular political programme" (para. 19).

2. The United Nations Security Council, and when it is unable to act, the United Nations General Assembly, through the "Uniting for Peace" resolution (377 (V)), are the principal bodies designated by the Charter to deal with conflict. However, when the Charter was written, during the Second World War, the primary aim was to prevent aggression and war between States. Both the Security Council and the General Assembly have had great difficulty dealing positively with intra-State conflicts.

3. Therefore, the United Nations human rights bodies, in particular the Commission on Human Rights and the Sub-Commission, have become the forums in which ongoing conflicts are discussed owing to the large number of human rights violations which are an inherent part of armed conflicts. The human rights bodies were not originally designed to deal with situations of armed conflict or as forums where conflict resolution compromises in intra-State conflicts could be reached. However, as the Secretary-General pointed out, it is in such conflicts where there are consistent patterns of human rights violations including torture, summary executions, arbitrary detention, slavery, forced displacement of populations, as well as limitations placed on freedom of expression, assembly, religious practice, etc.

4. Non-governmental organizations (NGOs) have increasingly become the avenue by which attention is called to intra-State conflicts at the Commission on Human Rights and the Sub-Commission. There has been a trend since the 1980s in the Commission and Sub-Commission to have NGO oral presentations made by persons directly related to the conflict as they have first-hand experience. Some NGOs believe that such witnesses are particularly important in those conflicts where there is little media coverage.

5 There is, however, some ambiguity in having partisan presentations made in the name of an NGO in consultative status as that NGO may, in fact, have no overall policy on that particular conflict beyond being against violations of human rights. Thus, the image of some NGOs becomes associated in the minds of people, Governments and other NGOs as being the spokesperson or supporter of a particular faction in an armed conflict. At times the NGO is seen as an informal spokesperson for a Government, more often, as a supporter of an armed opposition.

6 To overcome this ambiguity, it has been proposed that representatives of armed movements be able to speak in their own name to the Commission on Human Rights and the Sub-Commission. At the start of the first special session of the Commission on Human Rights devoted to the former Yugoslavia in 1992, an NGO in consultative status made a request of the Bureau of the Commission that various NGO groups from the former Yugoslavia, some of which had close contacts or ties with armed groups, be allowed to speak under their own name. The request was discussed by the Bureau and was refused as there was no previous Economic and Social Council resolution granting such a right. Therefore, groups of the former Yugoslavia were accredited by a number of NGOs present so that these groups could participate in the session and present their views. The same situation repeated itself at the special session on Rwanda in May 1994 and at the recent special session on East Timor in 1999.

7 There have also been repeated presentations by people involved in armed conflicts to regular sessions of the Commission on Human Rights and the Sub-Commission. Nevertheless, this practice of accreditation of persons in intra-State armed conflicts has led to threats against NGOs by government representatives as well as demands for action by the Economic and Social Council Committee on NGOs to suspend or withdraw consultative status in such cases. The most recent example is Christian Solidarity International and the Government of the Sudan concerning the accreditation of Dr. John Garang of the Sudan Peoples' Liberation Movement to the 1999 session of the Commission.

8 Such governmental pressures decrease the relations of confidence and fairness necessary for fruitful Government-NGO relations. As the withdrawal of the consultative status from an NGO is the most severe sanction which the Economic and Social Council can take against an NGO in consultative status, the proceedings against Christian Solidarity International were followed closely by the NGO community. A dossier analysing the workings of the Committee on NGOs at its June and September 1999 meetings and the Council debates and decisions in July and October 1999 was prepared by the Association for World Education and was widely distributed. The proceedings of the Committee on NGOs were generally considered to be flawed and to be a serious obstacle to constructive UN-NGO collaboration. There is a certain irony in the fact that hardly two months after the withdrawal of consultative status from CSI because of its accreditation of John Garang, the Government of the Sudan and the Sudanese Peoples' Liberation Movement signed a far-reaching humanitarian agreement at the Palais des Nations on 15 December 1999.

9 The basic issue is to find the proper forum and modality for dealing with intra-State conflicts by having the main protagonist present. One possibility is to build upon the precedent of the Working Group on Indigenous Populations. There, participants need not be from an NGO in consultative status but can represent a tribe, a tribal organization, a clan, etc. There have been

participants from groups which are in armed conflict with member Governments. Governments, of course, have the right of reply to statements made by these representatives of indigenous or tribal armed groups. There have been occasions when government and armed-group representatives have met together informally around the Working Group to understand better each other's positions. NGO representatives have also served as go-betweens. In at least one case, this has led to a ceasefire, which still holds.

10. There is also the precedent of giving armed movements special observer status, which was the case for the African National Congress of South Africa, the Palestine Liberation Organization and the South West Africa People's Organization (SWAPO) of Namibia.

11. At this time, when the Commission on Human Rights and NGOs are considering seriously the means of enhancing the effectiveness of the mechanisms of the Commission and the Sub-Commission, it is important to discuss the following:

(a) The growing number of intra-State conflicts with serious, continuing violations of human rights;

(b) The modalities by which representatives from armed groups can participate to make their position known;

(c) The most effective role for NGOs to play in such situations.